

NII.11893

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JAVONTE ALEXANDER,

Plaintiff,

v.

**DONALD CLEAR and
MCCORKLE TRUCK LINE INC.,**

Defendants.

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**CIVIL ACTION NO. 3:22-cv-1144
JURY**

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **MCCORKLE TRUCK LINE INC.**, Defendant in the above matter,
and files this Notice of Removal under 28 U.S.C. §§ 1441 and 1332(a).

**I.
BACKGROUND**

A. 1. PLAINTIFF SUED MCCORKLE TRUCK LINE INC. AND DONALD CLEAR, IN THE 192ND JUDICIAL DISTRICT COURT OF DALLAS COUNTY, TEXAS, CAUSE NO. DC-22-00884, ALLEGING THE NEGLIGENCE OF DEFENDANTS MCCORKLE TRUCK LINE INC. AND DONALD CLEAR.

2. Defendant McCorkle Truck Line Inc. was served on or about April 28, 2022.
Defendant has filed this Notice of Removal within the time period required. 28 U.S.C. §1446(b).

3. Defendant Donald Clear has not been served or made an appearance in this case.
Defendant Clear is a resident of the state of Kansas.

3. Plaintiff Javonte Alexander is a resident of Texas and domiciled in Dallas, Texas.

4. Defendant McCorkle Truck Line Inc. is a corporation in the State of Oklahoma
with its principal place of business in Oklahoma.

5. Plaintiff's Original Petition, filed contemporaneously herewith, seeks "monetary relief in excess of \$250,000."

II.

BASIS FOR REMOVAL

6. Removal is proper under 28 U.S.C. § 1332(a) because Plaintiff's suit is a civil action in which this Court has original jurisdiction over the parties, based upon diversity jurisdiction under 28 U.S.C. § 1332. This action is removable to this Court pursuant to the provisions of 28 U.S.C. §1441(b) because Plaintiff is a citizen of the State of Texas, and Defendant is incorporated in the State of Oklahoma with its principal place of business in California.

7. As the Court is certainly aware, for diversity purposes, a person is considered a citizen of the state where that person is domiciled. Plaintiff is a person and domiciled in Texas. A corporation is treated as a citizen of the state in which it is incorporated and the state in which it has its principal place of business. As noted above, McCorkle Truck Line Inc. is incorporated in the State of Oklahoma and has its principal place of business in Oklahoma. Defendant Donald Clear is a resident of the State of Kansas.

9. Because the Plaintiff and the Defendants to this suit do not share citizenship in any state, removal is proper on diversity grounds.

10. Defendants are now and were at the time the removed action was commenced, diverse in citizenship from the Plaintiff. 28 U.S.C. § 1332. Accordingly, because this notice of removal has been filed within thirty days after the receipt of a copy of the initial pleading setting forth the claim for relief, this removal is proper and timely under 28 U.S.C. §1446(b).

11. Further, as set forth in Plaintiff's Original Petition, filed with these pleadings here today, the amount in controversy in this action exceeds, exclusive of interest and costs, the sum of \$250,000. Thus, the amount in controversy meets the threshold for removal.

12. The United States District Court for the Northern District of Texas, Dallas Division, embraces Dallas, Texas, the place where the state court action was filed and is pending. This statement is not meant as a waiver of any argument that venue is improper in the location in which the state court action was filed, but merely demonstrates the propriety of removing the action to this federal judicial district.

13. All pleadings, process, orders, served upon Defendants or issued by the state court are attached to this Notice as Exhibit "A" as required by 28 U.S.C. § 1446(a). No other motions are pending before the state court.

14. Defendant will promptly file a copy of this Notice with the clerk of the state court in which the action is pending.

III. **REQUEST FOR JURY TRIAL**

18. Defendant hereby demands a trial by jury in accordance with the provisions of FED. R. CIV. P. 38.

WHEREFORE, PREMISES CONSIDERED, McCorkle Truck Line Inc., as a party in diversity with the Plaintiff, respectfully requests that this action be immediately and entirely removed upon filing of this Notice of Removal to the United States District Court for the Northern District of Texas, Dallas Division, and for such other and further relief to which it may show itself to be justly entitled in equity or law.

Respectfully submitted,

/s/ Michael P. Sharp

MICHAEL P. SHARP

State Bar No. 00788857

msharp@feesmith.com

ROBYN M. WISE

State Bar No. 24044002

rwise@feesmith.com

Three Galleria Tower

13155 Noel Road, Suite 1000

Dallas, Texas 75240

(972) 934-9100 Telephone

(972) 934-9200 Facsimile

**ATTORNEYS FOR DEFENDANT
MCCORKLE TRUCK LINE INC.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 25, 2022, I electronically filed the foregoing document with the Clerk of the Court for the U.S. District Court, Northern District of Texas – Dallas Division, using the electronic case filing system of the Court. The electronic filing system sent a “Notice of Electronic Filing” to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means as follows:

Via E-File:

Larry Rolle

ROLLELAW

2030 Main Street

Suite 200

Dallas, TX 75201

larryr@rbrl.com

Attorneys for Plaintiff

/s/ Michael P. Sharp

MICHAEL P. SHARP

NII.11893

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

| | | |
|----------------------------------|---|--------------------------------------|
| JAVONTE ALEXANDER, | § | |
| | § | |
| Plaintiff, | § | |
| | § | CIVIL ACTION NO. 3:22-cv-1144 |
| v. | § | JURY |
| | § | |
| DONALD CLEAR and | § | |
| MCCORKLE TRUCK LINE INC., | § | |
| | § | |
| Defendants. | § | |

INDEX OF PLEADINGS FILED IN THE STATE COURT ACTION

TO THE UNITED STATES DISTRICT CLERK:

Pursuant to 28 U.S.C. § 1447(b), attached hereto are the following complete true and correct copies of all documents filed in the state court action:

1. Plaintiff's Original Petition (1.21.22)
2. Citation to Donald Clear (1.21.22)
3. Request to Issue Citation to McCorkle (1.28.22)
4. Citation – McCorkle Truck Line (1.21.22)
5. Dismissal Hearing by the Court for 4-25-22 at 9am (3.28.22)
6. Order of Dismissal for Want of Prosecution (4.26.22)
7. Notice of Order of Dismissal for Want of Prosecution (4.26.22)
8. Plaintiff's Motion to Reinstate (04.27.22)
9. Conformed Order granting Plaintiff's Verified Motion to Reinstate (05.19.22)
10. Affidavit Return of Service of Citation regarding McCorkle Truck Line (served 4.28.22) (05.06.22)
11. Certificate of Conference - Plaintiff's Motion to Reinstate (05.09.22)
12. Notice of Hearing - Plaintiff's Motion to Reinstate set 05.19.22 at 1045am (05.09.22)
13. Conformed Order granting Plaintiff's Motion to Reinstate (05.19.22)
14. Court Notice regarding Reinstatement and Dismissal for Want of Prosecution date set 06.13.22 at 9am – (further requests will be denied) (05.19.22)
15. Defendant McCorkle's Original Answer and Jury Demand (05.23.22)
16. Uniform Scheduling Order (05.23.22)
17. Letter from Court to attorney Larry Rolle re Scheduling Order available online (05.23.22)

18. Letter from Court to attorney Michael Sharp re Scheduling Order available online (05.23.22)
19. Letter from Court to attorney Larry Rolle re Jury Trial reset to 07.10.23 at 9am (05.23.22)
20. Letter from Court to attorney Michael Sharp re Jury Trial reset to 07.10.23 at 9am (05.23.22)

Respectfully submitted,

/s/ Michael P. Sharp

MICHAEL P. SHARP

State Bar No. 00788857

Email: msharp@feesmith.com

ROBYN M. WISE

State Bar No. 24044002

Email: rwise@feesmith.com

FEE, SMITH, SHARP & VITULLO, L.L.P

Three Galleria Tower

13155 Noel Road, Suite 1000

Dallas, Texas 75240

Tel: 972-934-9100

Fax: 972-934-9200

ATTORNEYS FOR DEFENDANT

MCCORKLE TRUCK LINE INC.

CERTIFICATE OF SERVICE

In accordance with the Federal Rules of Civil Procedure, I hereby certify that on May 25, 2022 a true and correct copy the foregoing instrument was served on the following counsel of record authorized by Federal Rule of Civil Procedure 5(b)(2):

Via E-Service:

Larry Rolle

ROLLELAW

2030 Main Street

Suite 200

Dallas, TX 75201

larryr@rbrl.com

Attorneys for Plaintiff

/s/ Michael P. Sharp

MICHAEL P. SHARP

DC-22-00884
NO. _____

| | | |
|----------------------------------|---|--------------------------------|
| JAVONTE ALEXANDER, | § | IN THE DISTRICT COURT |
| Plaintiff, | § | |
| | § | |
| V. | § | 192nd |
| | § | _____ JUDICIAL DISTRICT |
| | § | |
| DONALD CLEAR and MCCORKLE | § | |
| TRUCK LINE, INC., | § | |
| Defendants. | § | DALLAS COUNTY, TEXAS |

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME JAVONTE ALEXANDER, hereinafter referred to as Plaintiff, complaining of and about DONALD CLEAR and MCCORKLE TRUCK LINE, INC., hereinafter referred to as Defendants, and for cause of action show unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery Level 2. Plaintiff seeks only monetary damages of over \$250,000.00, including damages, of any kind, penalties, costs, pre-judgment interest and attorney fees.

PARTIES AND SERVICE

2. Plaintiff JAVONTE ALEXANDER is an individual residing in Fort Worth, Texas.
3. The last three numbers of JAVONTE ALEXANDER's social security number are 958.
4. Defendant DONALD CLEAR is an individual who is a resident of Texas and may be served with process at **5402 NE 43rd Ter, Kansas City, MO 64117**, or wherever they may be found. Service of said Defendant as described above can be effected by personal delivery.
5. Defendant MCCORKLE TRUCK LINE, INC. is a foreign corporation doing business

in the State of Texas, may be served with process through their registered agent, Vic H. Henry, **1700 Pacific Avenue, Suite 2700, Dallas, TX 75201**, or wherever they may be found. Service of said Defendant as described above can be effected by personal delivery.

JURISDICTION AND VENUE

6. The subject matter in controversy is within the jurisdictional limits of this court.

7. This court has jurisdiction over the parties because the Motor Vehicle Accident occurred in Texas.

8. Venue in Dallas County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

FACTS

9. On or about January 22, 2020, Plaintiff JAVONTE ALEXANDER was traveling southbound on the Interstate 35 Highway in the left south of the Empire Drive Exit. Defendant DONALD CLEAR was driving an 18-wheeler and was traveling in the same direction as Plaintiff in the middle lane when he failed to maintain a single lane of traffic striking the passenger side of Plaintiff's vehicle. Due to the violent impact, Plaintiff could not regain control of his vehicle and collided with the concrete barriers of the highway.

10. At all times relevant to the incident made the basis of this lawsuit; Defendant DONALD CLEAR operated a company's truck which was owned by Defendant MCCORKLE TRUCK LINE, INC. Additionally, Defendant DONALD CLEAR was an agent, servant, and/or employee of MCCORKLE TRUCK LINE, INC. and was in the course and scope of his employment

with Defendant MCCORKLE TRUCK LINE, INC.

11. As a result of Defendants' negligence, Plaintiff suffered the injuries and damages of which are complained herein.

**PLAINTIFF'S CLAIM OF NEGLIGENCE
AGAINST DONALD CLEAR**

12. Defendant DONALD CLEAR had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.

13. Plaintiff's injuries were proximately caused by Defendant DONALD CLEAR's negligent, careless and reckless disregard of said duty.

14. The negligent, careless and reckless disregard of duty of Defendant DONALD CLEAR consisted of, but is not limited to, the following acts and omissions:

- A. In that Defendant DONALD CLEAR failed to keep a proper lookout for Plaintiffs' safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- B. In that Defendant DONALD CLEAR failed to maintain a clear and reasonable distance between Plaintiff's motor vehicle and Defendant MCCORKLE TRUCK LINE, INC.'s vehicle in violation of Texas Transportation Code §545.062;
- C. In that Defendant DONALD CLEAR failed to keep such distance away from Plaintiff's motor vehicle as a person using ordinary prudent care would have done; and
- D. In that Defendant DONALD CLEAR failed to apply her brakes to MCCORKLE TRUCK LINE, INC.'s vehicle in a timely and prudent manner and/or wholly failed to apply his brakes.
- E. In that Defendant DONALD CLEAR failed to maintain a single lane of traffic.

**PLAINTIFF'S CLAIM OF NEGLIGENT ENTRUSTMENT AND RESPONDEAT
SUPERIOR AGAINST MCCORKLE TRUCK LINE, INC.**

15. On January 22, 2020, Defendant MCCORKLE TRUCK LINE, INC. was the owner of the vehicle operated by Defendant DONALD CLEAR.

16. Defendant MCCORKLE TRUCK LINE, INC. entrusted the vehicle to DONALD CLEAR, a reckless, incompetent, or unlicensed driver.

17. Defendant MCCORKLE TRUCK LINE, INC. knew, or through the exercise of reasonable care should have known, that DONALD CLEAR was a reckless, incompetent, or unlicensed driver.

18. As described herein, DONALD CLEAR was negligent on the occasion in question.

19. DONALD CLEAR's negligence was the proximate cause of Plaintiff's damages.

20. Because of the acts and/or omissions of its employee, Defendant MCCORKLE TRUCK LINE, INC. is responsible for the actions and/or omissions of its employee under the doctrine of *respondeat superior and/or vicarious liability*.

DAMAGES FOR PLAINTIFF JAVONTE ALEXANDER

21. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, JAVONTE ALEXANDER was caused to suffer severe injuries, and to incur the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff, JAVONTE ALEXANDER for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in Dallas County, Texas;
- B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;

- C. Physical pain and suffering in the past;
- D. Physical pain and suffering in the future;
- E. Physical impairment in the past;
- F. Physical impairment which, in all reasonable probability, will be suffered in the future;
- G. Mental anguish in the past;
- H. Mental anguish in the future;
- I. Lost wages; and
- J. Property Damage.

RULE 193.7 NOTICE

22. Pursuant to Rule 193 of the Texas Rules of Civil Procedure, Plaintiff hereby give actual notice to Defendants that any and all documents and materials produced in response to written discovery may be used as evidence in this case; and, that any such materials used as evidence against the party producing the document at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the documents and/or materials produced in discovery.

DISCLOSURE REQUEST

A. Request for Disclosure

Defendants are hereby requested to disclose, within thirty (30) days of service of this petition and incorporated request, the information or material described in Rule 194.2(a)-(i) of the Texas Rules of Civil Procedure, to the undersigned counsel of record for Plaintiff.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, JAVONTE ALEXANDER respectfully pray that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants, jointly and severally, for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the maximum legal rate; costs of court; and such other and further relief to which the Plaintiffs may be entitled at law or in equity.

Respectfully submitted,

ROLLELAW

/s/Larry Rolle

LARRY ROLLE

State Bar No. 17212600

larryr@rbrl.com

2030 Main Street, Suite 200

Dallas, Texas 75201

Tel: (214) 742-8897

Fax: (214) 637-6872

Attorney for Plaintiff

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

**To: DONALD CLEAR
5402 NE 43RD TERRACE
KANSAS CITY MO 64117**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written Answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and **petition**, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org. Your answer should be addressed to the clerk of the **192nd District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAVONTE ALEXANDER**

Filed in said Court **21st day of January, 2022** against

DONALD CLEAR AND MCORKLE TRUCK LINE, INC.

For Suit, said suit being numbered **DC-22-00884**, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 28th day of January, 2022.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By *Carlenia Bouligny*, Deputy
CARLENIA BOULIGNY



ESERVE

CITATION

DC-22-00884

**JAVONTE ALEXANDER
Vs.
DONALD CLEAR, et al**

**ISSUED THIS
28th day of January, 2022**

**FELICIA PITRE
Clerk District Courts,
Dallas County, Texas**

By: CARLENIA BOULIGNY, Deputy

**Attorney for Plaintiff
LARRY ROLLE
ROLLE LAW
2030 MAIN STREET SUITE 200
DALLAS TX 75201
214-742-8897
larryr@rbrl.com**

**DALLAS COUNTY
SERVICE FEES
NOT PAID**

OFFICER'S RETURN

Case No. : DC-22-00884

Court No.192nd District Court

Style: JAVONTE ALEXANDER

Vs.

DONALD CLEAR, et al

Came to hand on the _____ day of _____, 20_____, at _____ o'clock _____ .M. Executed at
_____, within the County of _____ at _____ o'clock _____ .M. on the
_____ day of _____, 20_____, by delivering to the within named

Each in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery.

The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

| | | |
|----------------------|----------|------------------------|
| For serving Citation | \$ _____ | _____ |
| For mileage | \$ _____ | of _____ County, _____ |
| For Notary | \$ _____ | by _____ Deputy |

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20_____,

To certify which witness my hand and seal of office.

Notary Public _____ County _____

RolleLaw

LARRY ROLLE
*Board Certified-Personal Injury Trial Law**

**Texas Board of Legal Specialization*

ATTORNEYS AT LAW
2030 MAIN STREET, SUITE 200
DALLAS, TEXAS 75201-4420
214-742-8897
FAX 214-637-6872
www.RBWattorneys.com

CHAD W. EATON
Associate Attorney

HEATHER V. BANAHAN NEASE
Associate Attorney

January 28, 2022

Via Electronic Service

162nd Judicial District Court
George L. Allen, Sr. Courts Bldg.
600 Commerce Street
Dallas, Texas 75202

Re: Cause Number DC-22-00884
JAVONTE ALEXANDER vs. DONALD CLEAR and MCCORKLE TRUCK LINE,
INC.,

Dear Clerk:

Citation is being requested for Defendant **MCCORKLE TRUCK LINE, INC., who may be served with Register Agent Vic H. Henry, 1700 Pacific Ave., Suite 2700, Dallas, TX 75201**
Can you please forward to me via e-mail natalyr@rbrl.com for service by private process server.

Your attention to this matter is greatly appreciated.

Very Truly Yours,

Rolle Law

Nataly Rojas

Nataly Rojas
Paralegal to Larry Rolle

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Nataly Rojas on behalf of Lawrence Rolle
Bar No. 17212600
natalyr@rbrl.com
Envelope ID: 61272694
Status as of 2/2/2022 10:02 AM CST

Associated Case Party: JAVONTE ALEXANDER

| Name | BarNumber | Email | TimestampSubmitted | Status |
|-------------|-----------|-----------------|----------------------|--------|
| LARRY ROLLE | | larryr@rbrl.com | 1/28/2022 4:41:32 PM | SENT |

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

**To: MCCORKLE TRUCK LINE, INC.
BY SERVING ITS REGISTERED AGENT, VIC H. HENRY
1700 PACIFIC AVENUE, SUITE 2700
DALLAS, TEXAS 75201**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org. Your answer should be addressed to the clerk of the **192nd District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JAVONTE ALEXANDER**

Filed in said Court **21st day of January, 2022** against

DONALD CLEAR AND MCCORKLE TRUCK LINE, INC.

For Suit, said suit being numbered **DC-22-00884**, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition **AND REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 3rd day of February, 2022.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By _____, Deputy
ANGELA CONEJO



ESERVE

CITATION

DC-22-00884

**JAVONTE ALEXANDER
vs.
DONALD CLEAR, et al**

**ISSUED THIS
3rd day of February, 2022**

**FELICIA PITRE
Clerk District Courts,
Dallas County, Texas**

By: ANGELA CONEJO, Deputy

**Attorney for Plaintiff
LARRY ROLLE
ROLLE LAW
2030 MAIN STREET, SUITE 200
DALLAS, TEXAS 75201
214-742-8897
larryr@rbrl.com**

**DALLAS COUNTY
SERVICE FEES
NOT PAID**

OFFICER'S RETURN

Case No. : DC-22-00884

Court No.192nd District Court

Style: JAVONTE ALEXANDER

vs.

DONALD CLEAR, et al

Came to hand on the _____ day of _____, 20_____, at _____ o'clock _____ .M. Executed at _____,
within the County of _____ at _____ o'clock _____ .M. on the _____ day of _____,
20_____, by delivering to the within named _____

each in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by
me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation \$ _____

For mileage \$ _____ of _____ County, _____

For Notary \$ _____ By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20_____,
to certify which witness my hand and seal of office.

Notary Public _____ County _____



192nd District Court
George L Allen, Sr. Courts Building
600 Commerce Street – Suite 740
Dallas, Texas 75202-4627
Telephone 214-653-7709

LARRY ROLLE
ROLLE LAW
2030 MAIN STREET SUITE 200
DALLAS TX 75201

March 24, 2022

RE: DC-22-00884
JAVONTE ALEXANDER vs. DONALD CLEAR, et al

Dear Counsel:

A dismissal hearing is now set for

04/25/2022 @ 9:00 A.M. **BY SUBMISSION**

Please take the following action prior to the hearing:

- √ if you intend to pursue this matter, issue and serve citation upon Defendant(s).
- √ if you do not intend to pursue this matter, file a nonsuit or dismissal.
- √ provide this Court with a MOTION TO RETAIN & PROPOSED ORDER as to the status of this case.

Failure to comply with the foregoing, without presenting good and sufficient cause to the court, will result in this matter being dismissed for want of Prosecution on 04/25/2022 @ 9:00 a.m., pursuant to Texas Rule of Civil Procedure 165a.

Sincerely,
Judge Kristina Williams
192nd DISTRICT COURT
DALLAS COUNTY, TEXAS



192nd District Court
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET
DALLAS, TEXAS 75202

CAUSE NO. DC-22-00884

JAVONTE ALEXANDER

vs.

DONALD CLEAR, et al

ORDER OF DISMISSAL FOR WANT OF PROSECUTION

Plaintiff(s) having failed to take certain action heretofore specified by the court within the time period prescribed, and having not disposed of this case, the court finds that the cause should be dismissed for want of prosecution pursuant to Tex. R. Civ. P. 165a. The Court finds that Plaintiff was duly notified of a dismissal hearing set 04/25/2022 at 9:00 AM and did not take the necessary action. Accordingly,

IT IS ORDERED that the case is dismissed for want of prosecution with costs taxed against Plaintiff, for which execution issue. This is a final, appealable judgment, which disposes of all parties and claims in this case.

Signed this _____ day of _____, 2022.

4/25/2022 3:35:28 PM

A handwritten signature in black ink, appearing to read "K. Williams", written over a horizontal line.

Judge Kristina Williams
192nd District Judge

**FELICIA PITRE
DISTRICT CLERK
DALLAS COUNTY**
600 COMMERCE, 1ST FLOOR
DALLAS, TEXAS 75202-4606

April 26, 2022

LARRY ROLLE
ROLLE LAW
2030 MAIN ST
STE 200
DALLAS TX 75201

NOTICE OF ORDER OF DISMISSAL FOR WANT OF PROSECUTION

CAUSE No. DC-22-00884

JAVONTE ALEXANDER
Plaintiff(s),

v.

DONALD CLEAR
Defendant(s)

|||
In the District Court

of Dallas County, Texas

192nd District Court

TO WHOM IT MAY CONCERN:

In accordance with the provisions of Rule 165 (a) of the Texas Rules of Civil Procedure, you are hereby notified that an Order for Dismissal for Want of Prosecution has been entered and signed on 04/25/2022 in the above-referenced matter.

Respectfully,
Felicia Pitre, District Clerk



A handwritten signature in dark ink, appearing to read "Felicia Pitre", is written over a light blue circular stamp that partially overlaps the official seal.

CAUSE NO. DC-22-00884

| | | |
|----------------------------------|---|---|
| JAVONTE ALEXANDER | § | IN THE DISTRICT COURT |
| Plaintiff, | § | |
| | § | |
| V. | § | 192ND JUDICIAL DISTRICT |
| | § | |
| DONALD CLEAR and MCCORKLE | § | |
| TRUCK LINE, INC., | § | |
| Defendants. | § | DALLAS COUNTY, TEXAS |

PLAINTIFF'S VERIFIED MOTION TO REINSTATE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW **JAVONTE ALEXANDER** hereinafter referred to as "Plaintiff", by and through his attorney of record, Larry Rolle, and files this Motion to Reinstate under Rule 165a of the Texas Rules of Civil Procedure, to set aside the Order of Dismissal heretofore entered by the Court on April 25, 2025, and to reinstate this cause of action on the docket of this Court and for would respectfully show the Court the following.

FACTUAL BACKGROUND

This case was dismissed by an order signed April 25, 2022, for want of prosecution. As Plaintiff's counsel was in the process of getting Defendant served by constable based on the Defendant's hostility over the phone, attached hereto as **Exhibit "A."** It was discovered to his surprise the case was dismissed. Plaintiff's counsel did not receive a notice of dismissal in advance for the opportunity to show action and diligence on the case. Plaintiff's failure to receive the notice or failure to act was not intentional or the results of conscious indifference. Plaintiff's counsel seeks to remedy the same now.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff Javonte Alexander prays that in fairness and in equity, that the Order of Dismissal in this case be set aside; that the case be reinstated on the docket of the Court, and that Plaintiff be granted such other relief to which Plaintiff may be entitled.

Respectfully submitted,

ROLLELAW

/s/ Larry Rolle

LARRY ROLLE

State Bar No. 17212600

2030 Main Street

Suite 200

Dallas, Texas 75201

Tel: (214) 742-8897

Fax: (214) 637-6872

larryr@rbrl.com

ATTORNEY FOR PLAINTIFF

VERIFICATION

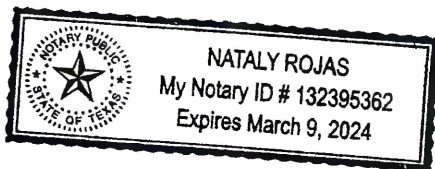
STATE OF TEXAS §
 §
COUNTY OF DALLAS §

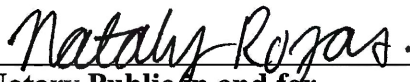
On this day, Larry Rolle, personally appeared before me, the undersigned Notary Public, and swears upon his oath that he has read the foregoing Plaintiff's Motion for Reinstatement and the facts stated are within his personal knowledge and are true and correct.



LARRY ROLLE

SUBSCRIBED AND SWORN TO BEFORE ME on this 27th day of April 2022, to certify which witness my hand and seal of office.





Notary Public/in and for
the State of Texas

EXHIBIT “A”



IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

CASE DESCRIPTION:

JAVONTE ALEXANDER vs DONALD CLEAR

COURT CASE NUMBER:

DC-22-00884

FOREIGN CASE NUMBER:

AFFIDAVIT

I, Eugene Smith, of lawful age, being first duly sworn, on my oath state that I am a Deputy Court Administrator employed as a process server for the Circuit Court of JACKSON County, Missouri: that the Court Administrator is vested with the authority to execute process in JACKSON County pursuant to Article VI of the JACKSON County, Missouri Constitutional Home Rule Charter; and that I executed this CITATION / PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE in JACKSON County, Missouri.

☐ PERSONAL SERVICE: By delivering a copy of same personally to defendant _____

☐ MEMBER OF FAMILY: By leaving a copy thereof at the dwelling place or usual place of abode of the within-named defendant, _____ by leaving with _____, who stated he/she was a member of the defendant's family over the age of 15 years.

☐ CORPORATION-PERSON IN CHARGE: By leaving a copy of same at the business office of the within-named corporation, _____, with _____, who said he/she was the person having charge thereof.

☐ CORPORATION-OFFICER OR AGENT: By delivering a copy of same to the within-named corporation, _____, by serving _____, who said he/she was _____

☒ NON-EST: By making a diligent search for and failing to find the within-named defendant, DONALD, CLEAR, for the reason that xxx, Unknown at this address
4-14-22- 4:26 pm

Place of Service: _____

Date of Service: _____

Time of Service: _____

☐ AM ☐ PM

COURT ADMINISTRATOR'S OFFICE

Department of Civil Process

CIRCUIT COURT OF JACKSON County, MO

By: Eugene Smith

Deputy

Subscribed and sworn to before me on 4/15/22

My Commission Expires:



DOBRIELA RIBAR
My Commission Expires
August 16, 2022
Jackson County
Commission #18801024

[Signature]
NOTARY PUBLIC

5.5.22
22-FOSU-960**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**RECEIVED CIVIL PROCESS
2022 APR 11 10:10 AM**To: DONALD CLEAR**
5402 NE 43RD TERRACE
KANSAS CITY MO 64117**GREETINGS:**

You have been sued. You may employ an attorney. If you or your attorney do not file a written Answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at [TexasLawHelp.org](https://www.texaslawhelp.org). Your answer should be addressed to the clerk of the 192nd District Court at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being JAVONTE ALEXANDER**Filed in said Court 21st day of January, 2022 against****DONALD CLEAR AND MCORKLE TRUCKLINE, INC.**

For Suit, said suit being numbered DC-22-00884, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 28th day of January, 2022.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By Carlenia Bouligny, Deputy
CARLENIA BOULIGNY

ESERVE**CITATION****DC-22-00884**

JAVONTE ALEXANDER
Vs.

DONALD CLEAR, et al

ISSUED THIS
28th day of January, 2022

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: CARLENIA BOULIGNY, Deputy**Attorney for Plaintiff****LARRY ROLLE****ROLLE LAW****2030 MAIN STREET SUITE 200****DALLAS TX 75201****214-742-8897****larryr@rbl.com****DALLAS COUNTY****SERVICE FEES****NOT PAID**

OFFICER'S RETURN

Case No. : DC-22-00884
Court No. 192nd District Court
Style: JAVONTE ALEXANDER
Vs.
DONALD CLEAR, et al

Came to hand on the _____ day of _____, 20____, at _____ o'clock _____ M. Executed at _____, within the County of _____ at _____ o'clock _____ M. on the _____ day of _____, 20____, by delivering to the within named _____

Each in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation \$ _____
For mileage \$ _____ of _____ County, _____
For Notary \$ _____ by _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20____
To certify which witness my hand and seal of office.

Notary Public _____ County _____

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Nataly Rojas on behalf of Lawrence Rolle
Bar No. 17212600
natalyr@rbrl.com
Envelope ID: 63977245
Status as of 4/28/2022 9:01 AM CST

Associated Case Party: JAVONTE ALEXANDER

| Name | BarNumber | Email | TimestampSubmitted | Status |
|-------------|-----------|-----------------|----------------------|--------|
| LARRY ROLLE | | larryr@rbrl.com | 4/27/2022 5:11:09 PM | SENT |

CAUSE NO. DC-22-00884

JAVONTE ALEXANDER
Plaintiff,

V.

DONALD CLEAR and MCCORKLE
TRUCK LINE, INC.,
Defendants.

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IN THE DISTRICT COURT

192ND JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS


ORDER ON PLAINTIFFS' VERIFIED MOTION TO REINSTATE

ON THIS DATE, the Court considered Plaintiffs' Verified Motion to Reinstate. Having read Plaintiff's Verified Motion and heard argument of Counsel, the Court determines Plaintiffs' Verified Motion is well-taken and should be GRANTED.

IT IS THEREFORE ORDERED this matter is hereby REINSTATED on the Court's trial docket. Further motions to reinstate will be denied.

5/19/2022 9:20:11 AM

SIGNED this _____ day of _____, 2022.



JUDGE PRESIDING

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Nataly Rojas on behalf of Lawrence Rolle
Bar No. 17212600
natalyr@rbrl.com
Envelope ID: 63977245
Status as of 4/28/2022 9:01 AM CST

Associated Case Party: JAVONTE ALEXANDER

| Name | BarNumber | Email | TimestampSubmitted | Status |
|-------------|-----------|-----------------|----------------------|--------|
| LARRY ROLLE | | larryr@rbrl.com | 4/27/2022 5:11:09 PM | SENT |

NO. DC-22-00884

JAVONTE ALEXANDER,
Plaintiff,

V.

DONALD CLEAR and MCCORKLE TRUCK LINE, INC.,
Defendants.§
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IN THE DISTRICT COURT

192ND JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

AFFIDAVIT OF SERVICE

On this day personally appeared TODD CUMMINGS who, being by me duly sworn, deposed and said:

"The following came to hand on April 27, 2022, 5:35 PM:

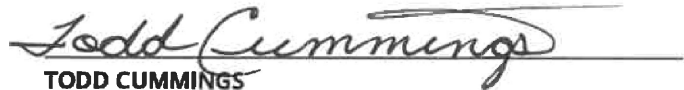
- CITATION;
- PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE,

and was executed at 1700 PACIFIC AVE SUITE 2700, DALLAS, TX 75201 within the county of DALLAS at 03:05 PM on Thursday, April 28, 2022, by delivering a true copy to the within named

MCCORKLE TRUCK LINE, INC. BY AND THROUGH ITS REGISTERED AGENT, VIC H. HENRY (ACCEPTED BY ARMIDA MORENO, AUTHORIZED RECIPIENT)

in person, having first endorsed the date of delivery on same.

I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I am familiar with the Texas Rules of Civil Procedure as they apply to service of Process. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I have personal knowledge of the facts stated herein and they are true and correct."



TODD CUMMINGS

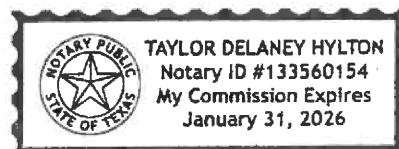
Certification Number: 13464

Certification Expiration: 01/31/2024

BEFORE ME, a Notary Public, on this day personally appeared TODD CUMMINGS, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are within his or her personal knowledge and are true and correct.

SUBSCRIBED AND SWORN TO ME ON 05-06-2022


Notary Public, State of Texas



**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

**To: MCCORKLE TRUCK LINE, INC.
BY SERVING ITS REGISTERED AGENT, VIC H. HENRY
1700 PACIFIC AVENUE, SUITE 2700
DALLAS, TEXAS 75201**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org. Your answer should be addressed to the clerk of the 192nd District Court at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being JAVONTE ALEXANDER

Filed in said Court 21st day of January, 2022 against

DONALD CLEAR AND MCCORKLE TRUCK LINE, INC.

For Suit, said suit being numbered **DC-22-00884**, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition **AND REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 3rd day of February, 2022.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By _____, Deputy
ANGELA CONEJO



ESERVE

CITATION

DC-22-00884

JAVONTE ALEXANDER

vs.

DONALD CLEAR, et al

**ISSUED THIS
3rd day of February, 2022**

**FELICIA PITRE
Clerk District Courts,
Dallas County, Texas**

By: ANGELA CONEJO, Deputy

Attorney for Plaintiff

LARRY ROLLE

ROLLE LAW

2030 MAIN STREET, SUITE 200

DALLAS, TEXAS 75201

214-742-8897

larryr@rbrl.com

**DALLAS COUNTY
SERVICE FEES
NOT PAID**

OFFICER'S RETURN

Case No. : DC-22-00884

Court No. 192nd District Court

Style: JAVONTE ALEXANDER

vs.

DONALD CLEAR, et al

Came to hand on the _____ day of _____, 20_____, at _____ o'clock _____ .M. Executed at _____,
within the County of _____ at _____ o'clock _____ .M. on the _____ day of _____,
20_____, by delivering to the within named _____

each in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by
me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

| | | |
|----------------------|----------|------------------------|
| For serving Citation | \$ _____ | _____ |
| For mileage | \$ _____ | of _____ County, _____ |
| For Notary | \$ _____ | By _____ Deputy |

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20_____,
to certify which witness my hand and seal of office.

Notary Public _____ County _____

CAUSE NO. DC-22-00884

JAVONTE ALEXANDER
Plaintiff,

V.

DONALD CLEAR and MCCORKLE
TRUCK LINEM INC.,
Defendants.

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IN THE DISTRICT COURT

192ND JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

CERTIFICATE OF CONFERENCE ON PLAINTIFF'S MOTION TO REINSTATE

The undersigned certifies that there has not been an answer filed by counsel.

Respectfully submitted,

ROLLELAW

/s/ Larry Rolle

LARRY ROLLE

State Bar No. 17212600

2030 Main Street

Suite 200

Dallas, Texas 75201

Tel: (214) 742-8897

Fax: (214) 637-6872

larryr@rbrl.com

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

In accordance with the Texas Rules of Civil Procedure, I hereby certify that on this 9th day of May 2022, a true and accurate copy of the foregoing document was served to the Co-Defendant's Counsel of record in the above-entitled and numbered cause.

/S/ Larry Rolle

LARRY ROLLE

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Nataly Rojas on behalf of Lawrence Rolle
Bar No. 17212600
natalyr@rbrl.com
Envelope ID: 64330413
Status as of 5/10/2022 8:53 AM CST

Associated Case Party: JAVONTE ALEXANDER

| Name | BarNumber | Email | TimestampSubmitted | Status |
|-------------|-----------|-----------------|---------------------|--------|
| LARRY ROLLE | | larryr@rbrl.com | 5/9/2022 4:40:20 PM | SENT |

CAUSE NO. DC-22-00884

JAVONTE ALEXANDER
Plaintiff,

V.

DONALD CLEAR and MCCORKLE
TRUCK LINEM INC.,
Defendants.

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IN THE DISTRICT COURT

192ND JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

NOTICE OF HEARING ON PLAINTIFF'S MOTION TO REINSTATE

Please take notice that Plaintiff's Motion to Reinstate will be heard by the court on **May**
19, 2022, at 10:45 a.m., located at **600 Commerce Street, 7th Floor New tower, Dallas, TX**
75202.

Respectfully submitted,
ROLLE LAW

/s/ Larry Rolle

Larry Rolle

Texas State Bar #: 17212600

2030 Main St., Suite 200

Dallas, Texas 75201

Telephone: (214) 742-8897

Facsimile: (214) 637-6872

Larryr@rbrl.com

Attorney for Plaintiff

CERTIFICATE OF SERVICE

This hereby certifies that a true and correct copy of the foregoing document was forwarded to all counsel of record, pursuant to the Texas Rules of Civil Procedure, on this the 9th day of May.

/s/ Larry Rolle

Larry Rolle

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Nataly Rojas on behalf of Lawrence Rolle
Bar No. 17212600
natalyr@rbrl.com
Envelope ID: 64330220
Status as of 5/10/2022 10:25 AM CST

Associated Case Party: JAVONTE ALEXANDER

| Name | BarNumber | Email | TimestampSubmitted | Status |
|-------------|-----------|-----------------|---------------------|--------|
| LARRY ROLLE | | larryr@rbrl.com | 5/9/2022 4:38:21 PM | SENT |

CAUSE NO. DC-22-00884

JAVONTE ALEXANDER
Plaintiff,

V.

DONALD CLEAR and MCCORKLE
TRUCK LINE, INC.,
Defendants.

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IN THE DISTRICT COURT

192ND JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

ORDER ON PLAINTIFFS' VERIFIED MOTION TO REINSTATE

ON THIS DATE, the Court considered Plaintiffs' Verified Motion to Reinstate. Having read Plaintiff's Verified Motion and heard argument of Counsel, the Court determines Plaintiffs' Verified Motion is well-taken and should be GRANTED.

IT IS THEREFORE ORDERED this matter is hereby REINSTATED on the Court's trial docket. Further motions to reinstate will be denied.

5/19/2022 9:20:11 AM

SIGNED this _____ day of _____, 2022.



JUDGE PRESIDING

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Nataly Rojas on behalf of Lawrence Rolle
Bar No. 17212600
natalyr@rbrl.com
Envelope ID: 63977245
Status as of 4/28/2022 9:01 AM CST

Associated Case Party: JAVONTE ALEXANDER

| Name | BarNumber | Email | TimestampSubmitted | Status |
|-------------|-----------|-----------------|----------------------|--------|
| LARRY ROLLE | | larryr@rbrl.com | 4/27/2022 5:11:09 PM | SENT |



192nd District Court
George L Allen, Sr. Courts Building
600 Commerce Street – Suite 740
Dallas, Texas 75202-4627
Telephone 214-653-7709

LARRY ROLLE
ROLLE LAW
2030 MAIN ST
STE 200
DALLAS TX 75201

May 19, 2022

RE: DC-22-00884
JAVONTE ALEXANDER vs. DONALD CLEAR, et al

Dear Counsel:

A dismissal hearing is now set for

06/13/2022 @ 9:00 A.M. **BY SUBMISSION**

Further motions to reinstate will be denied

Please take the following action prior to the hearing:

- if you intend to pursue this matter, issue and serve citation upon Defendant(s).
- ✓ if you do not intend to pursue this matter, file a nonsuit or dismissal.
- ✓ provide this Court with a MOTION TO RETAIN & PROPOSED ORDER as to the status of this case.

Failure to comply with the foregoing, without presenting good and sufficient cause to the court, will result in this matter being dismissed for want of Prosecution on 06/13/2022 @ 9:00 a.m., pursuant to Texas Rule of Civil Procedure 165a.

Sincerely,
Judge Kristina Williams
192nd DISTRICT COURT
DALLAS COUNTY, TEXAS

NII.11893

CAUSE NO. DC-22-00884

| | | |
|---------------------------|---|-------------------------|
| JAVONTE ALEXANDER, | § | IN THE DISTRICT COURT |
| | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | 192nd JUDICIAL DISTRICT |
| | § | |
| DONALD CLEAR and | § | |
| MCCORKLE TRUCK LINE INC., | § | |
| | § | |
| Defendants. | § | DALLAS COUNTY, TEXAS |

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW **MCCORKLE TRUCK LINE INC.**, Defendant named in the above entitled and numbered cause, and files this its Original Answer, and for same would respectfully show unto the Court as follows:

I.

GENERAL DENIAL

1. Defendant denies each and every, all and singular, the material allegations contained within Plaintiff's pleadings and demands strict proof thereof.

II.

NOTICE OF SELF-AUTHENTICATION

2. In accordance with Rule 193.7 of the Texas Rules of Civil Procedure, Defendant hereby provides written notice that he intends to use self-authenticated documents against Plaintiff at any future pretrial proceeding, trial, or appeal in this matter.

III.

AFFIRMATIVE DEFENSES

3. Defendant hereby asserts the following affirmative defenses and would show that the damages, or liabilities of which Plaintiff complains, if any exist, are the result, in whole or in part, of the following:

- a. **Paid or Incurred Medical Expenses:** Defendant would further show that the medical expenses Plaintiff seeks to recover should be limited to those actually paid or incurred by or on behalf of the Plaintiff pursuant to Texas Civil Practice & Remedies Code §41.0105.
- b. **Pre-judgment Interest:** Defendant further alleges that Plaintiff's claims for pre-judgment interest are limited by the damages and amounts set forth in Chapter 304 of the Texas Finance Code and Chapter 41 of the Texas Civil Practice and Remedies Code, as applicable to this.
- c. **Comparative Responsibility:** Defendant would show that the damages, or liabilities of which Plaintiff complains are the result, in whole or in part, of the negligence and/or negligence per se of Plaintiff. Defendant further asserts that Plaintiff was negligent with respect to the occurrence in question in the following manners:
 - Failed to keep proper management and control of his vehicle;
 - Failed to keep a proper lookout;
 - Failed to take proper evasive action to avoid a collision;
 - Unsafely operated a motor vehicle while distracted; and
 - Traveled at an unsafe speed.

Plaintiff's negligence, negligence per se, fault, acts and/or omissions were the sole proximate cause, or in the alternative, a contributing proximate cause of this occurrence and Plaintiff's damages, if any.

- d. **Statute of Limitations:** For further answer, and by way of affirmative defense, Defendant alleges that all of Plaintiff's claims are barred by the applicable Statute of Limitations.

IV.

JURY DEMAND

In accordance with Rule 216 of the Texas Rules of Civil Procedure, Defendant demands a trial by jury. A jury fee has been paid on behalf of Defendant.

V.

DESIGNATED EMAIL ADDRESS FOR SERVICE

For this matter, the following is the undersigned attorneys' designation of electronic service email addresses, for all electronically served documents and notices, filed or service only, pursuant to Tex. R. Civ. P. 21(f)(2) and 21(a):

Michael P. Sharp – msharp@feesmith.com
Robyn M. Wise – rwise@feesmith.com
Valerie Whitesell – vwhitesell@feesmith.com

Service through any other email address will be considered invalid, unless notified by the aforementioned individuals.

WHEREFORE, PREMISES CONSIDERED, Defendant **MCCORKLE TRUCK LINE INC.** prays that the Plaintiff take nothing by this suit, that Defendant go hence with his costs without delay, and for such other and further relief, both general and special, at law and in equity, to which Defendant may show himself justly entitled.

Respectfully submitted,

FEE, SMITH, SHARP & VITULLO, L.L.P.

/s/ Michael P. Sharp

MICHAEL P. SHARP

State Bar No. 00788857

ROBYN M. WISE

State Bar No. 24044002

Three Galleria Tower

13155 Noel Road, Suite 1000

Dallas, Texas 75240

msharp@feesmith.com

rwise@feesmith.com

972-980-3288

972-934-9200 [Fax]

**ATTORNEYS FOR DEFENDANT
MCCORKLE TRUCK LINE INC.**

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true and correct copy of the foregoing instrument has been electronically served on all attorneys of record in this cause of action on May 23, 2022:

Via E-File

Larry Rolle
ROLLELAW
2030 Main Street
Suite 200
Dallas, TX 75201

/s/ Michael P. Sharp

MICHAEL P. SHARP

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Linda Hammon on behalf of Michael Sharp
 Bar No. 788857
 lhammon@feesmith.com
 Envelope ID: 64737549
 Status as of 5/23/2022 1:29 PM CST

Associated Case Party: MCCORKLE TRUCK LINE, INC

| Name | BarNumber | Email | TimestampSubmitted | Status |
|-------------------|-----------|-------------------------|----------------------|--------|
| Robyn M.Wise | | rwise@feesmith.com | 5/23/2022 8:26:41 AM | SENT |
| Michael P.Sharp | | msharp@feesmith.com | 5/23/2022 8:26:41 AM | SENT |
| Valerie Whitesell | | vwhitesell@feesmith.com | 5/23/2022 8:26:41 AM | SENT |

Associated Case Party: JAVONTE ALEXANDER

| Name | BarNumber | Email | TimestampSubmitted | Status |
|-------------|-----------|-----------------|----------------------|--------|
| LARRY ROLLE | | larryr@rbrl.com | 5/23/2022 8:26:41 AM | SENT |

CAUSE NO. DC-22-00884

JAVONTE ALEXANDER
vs.
DONALD CLEAR, et al

In the District Court
Dallas County, Texas
192nd District Court

UNIFORM SCHEDULING ORDER (LEVEL 1 OR 2)

(Revised June 1, 2001)

In accordance with Rules 166, 190 and 192 of the Texas Rules of Civil Procedure, the Court makes the following order to control discovery and the schedule of this cause.

1. This case will be ready and is set for JURY TRIAL on **July 10, 2023** at 9:00 AM. (the “Initial Trial Setting”). Reset or continuance of the Initial Trial Setting will not alter any deadlines established in this Order or established by the Texas Rules of Civil Procedure, unless otherwise provided by order. If not reached as set, the case may be carried to the next week.

2. Unless otherwise ordered, discovery in this case will be controlled by:

() Rule 190.2 (Level 1)

(X) Rule 190.3 (Level 2)

of the Texas Rules of Civil Procedure. Except by agreement of the party, leave of court, or where expressly authorized by the Texas Rules of Civil Procedure, no party may obtain discovery of information subject to disclosure under Rule 194 by any other form of discovery.

3. Any objection or motion to exclude or limit expert testimony due to qualification of the expert or reliability of the opinions must be filed no later than seven (7) days after the close of the discovery period, or such objection is waived. Any motion to compel responses to discovery (other than relating to factual matters arising after the end of the discovery period) must be filed no later than seven (7) days after the close of the discovery period or such complaint is waived, except for the sanction of exclusion under Rule 193.6.

4. Any amended pleadings asserting new causes of action or affirmative defenses must be filed no later than thirty (30) days before the end of the discovery period and any other amended pleadings must be filed no later than seven (7) days after the end of the discovery period. Amended pleadings responsive to timely filed pleadings under this schedule may be filed after the deadline for amended pleadings if filed within two (2) weeks after the pleading to which they respond. Except with leave of court, TRCP 166a(c) motions must be heard no later than thirty (30) days before trial.

5. No additional parties may be joined more than five (5) months after the commencement of this case except on motion for leave showing good cause. This paragraph does not otherwise alter the requirements of Rule 38. The party joining an additional party shall serve a copy of this Order on the new party concurrently with the pleading joining that party.

6. The parties shall mediate this case no later than thirty (30) days before the Initial Trial Setting, unless otherwise provided by court order. Named parties shall be present during the entire mediation process and each corporate party must be represented by an executive officer or corporate representative with authority to negotiate a settlement.

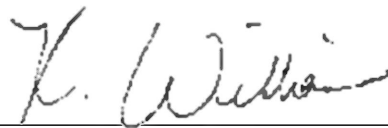
(X) Unless, within 14 days of this Order, the parties file a Joint Notice of Agreed Upon Substitute Mediator the parties agree to mediate this case with **TBD** is hereby appointed mediator. The parties must advise both the Court and the aforementioned mediator in writing of any agreed mediator within thirty (30) days of the date this Order is signed. Any mediator substitution requested beyond such time may only be made by motion for submission to the Court for good cause and under extraordinary circumstances.

(X) Unless otherwise ordered by the Court, the parties shall select a mediator by agreement; if the parties are unable to agree on a mediator, they shall advise the Court within ninety (90) days of the date of this order; the Court will then appoint a mediator.

7. Fourteen (14) days before the Initial Trial Setting, the parties shall exchange a list of exhibits, including any demonstrative aids and affidavits, and shall exchange copies of any exhibits not previously produced in discovery; over-designation is strongly discouraged and may be sanctioned. Except for records to be offered by way of business record affidavits, each exhibit must be identified separately and not by category or group designation. Rule 193.7 applies to this designation. On or before ten (10) days before the Initial Trial Setting, the attorneys in charge for all parties shall meet in person to confer on stipulations regarding the materials to be submitted to the Court under this paragraph and attempt to maximize agreement on such matters. By 4 p.m. on the Thursday before the Initial Trial Setting, the parties shall file with the Court the materials stated in Rule 166(e)-(l), an estimate of the length of trial, designation of deposition testimony to be offered in direct examination, and any motions in limine. Failure to file such materials may result in dismissal for want of prosecution or other appropriate sanction.

Plaintiff/Plaintiff's counsel shall serve a copy of this Order on any currently named defendant(s) answering after this date.

SIGNED 5/23/2022 3:44:19 PM, 2022.



District Judge



192nd District Court
George L Allen, Sr. Courts Building
600 Commerce Street
Dallas, Texas 75202-4627
Telephone 214-653-7709

LARRY ROLLE
ROLLE LAW
2030 MAIN ST
STE 200
DALLAS TX 75201

5/23/2022

RE: DC-22-00884
JAVONTE ALEXANDER
vs.
DONALD CLEAR, et al

Dear Counsel of Record:

PLEASE SEE ATTACHMENTS **OR** NOTE THE FOLLOWING:

ORDER(S) SIGNED 5/23/2022 IS NOW AVAILABLE FOR VIEWING ONLINE.

CC: LARRY ROLLE
ROLLE LAW
2030 MAIN ST
STE 200
DALLAS TX 75201
MICHAEL PAUL SHARP
FEE SMITH SHARP & VITULLO LLP
13155 NOEL RD
STE 1000
DALLAS TX 75240

SETTLEMENTS MUST BE REPORTED TO THE COURT IN WRITING

**PLEASE CONTACT THE COURT CLERK AT 214-653-7748 TO SET OR CANCEL
A HEARING ON THE COURT'S MOTION DOCKET**

Review your case information at: <http://courts.dallascounty.org/>

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Dear Counsel of Record:

PLEASE TAKE NOTE OF THE FOLLOWING SETTING
ON THE COURT'S TWO-WEEK DOCKET:

JURY TRIAL: 07/10/2023 at 9:00 AM.

Trial announcements must be made in accordance with Rule 3.02, Local Rules of the Civil Courts of Dallas County, Texas.

All remaining provisions of the Pre-Trial Order or Scheduling Order previously issued remains in effect.

Sincerely,
Judge Kristina Williams
192nd District Court



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